



State of Florida  
Department of Children and Families

Charlie Crist  
Governor

George H. Sheldon  
Secretary

# Office of Inspector General

*Enhancing Public Trust in Government*

**REDACTED**

**IG Investigation**

**2008 – 0001 WB**

**October 17, 2008**

**Sheryl G. Steckler**  
**Inspector General**

**Keith R. Parks**  
**Chief of Investigations**

*“Provide leadership in the promotion of accountability and  
integrity of State Government.”*

**Office of Inspector General  
Investigations Section  
Report Summary  
Case Number: 2008-0001WB**

---

**REDACTED**

**Introduction:**

Section 409.1671, Florida Statutes (F.S.), authorizes the Florida Department of Children and Families (Department) to contract for community-based child welfare services and designate a lead agency to deliver those services. According to Contract #GJ160 between Department Circuit 9 and Family Services of Metro Orlando, Inc. (FSMO) [renewed on December 20, 2007 until December 31, 2010], FSMO is the lead community-based care agency in Orange and Osceola Counties (Circuit 9). FSMO subcontracts with Devereux Foundation of Florida<sup>1</sup> (Devereux) via Contract #CM803 [from July 1, 2007 to June 30, 2008]<sup>2</sup> to deliver child protective supervision services, including foster care and adoptions, in Orange and Osceola Counties.

The following timeline includes pertinent information contained in Florida Safe Families Network (FSFN)<sup>3</sup> Case ID #106916:

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

---

<sup>1</sup> Devereux Foundation of Florida is part of the national Devereux Foundation, Inc.

<sup>2</sup> The revised contract number is CM903 and covers the period of July 1, 2008 through September 30, 2009.

<sup>3</sup> The Florida Safe Families Network is Florida's federally funded Statewide Automated Child Welfare Information System that provides information to support multiple community-based organizations and Sheriff's offices, in partnership with the State of Florida, to identify victims of abuse and neglect.

<sup>4</sup> [REDACTED]



On December 24, 2007, the Department Office of Inspector General (OIG) received a complaint alleging that Devereux Program Director Julian Green put child 3 and child 4 at risk for sexual assault by placing child 1 with them in the Burt foster home. According to the complainant, Mr. and Ms. Burt were not made fully aware of allegations made against child 1 by relatives in Puerto Rico, who alleged that child 1 had sexually abused younger female children (cousins) while child 1 was placed with relatives in Puerto Rico from October 2006 to September 2007. The complainant also alleged that even though FSMO Senior Program Specialist Amy Kryszan was aware of the sexual abuse allegations in Puerto Rico, she approved an Overcapacity Waiver Request<sup>6</sup> so that child 1 could be placed in the Burt home. The complainant added that Mr. Green had previously put child 1 at risk of sexual assault in June 2005 by placing child 1 in another foster home with child 5, who had been arrested for sexually assaulting a younger child.

The complainant requested Whistle-blower status in accordance with § 112.3187, F.S. On January 7, 2008, the Chief Inspector General, Office of the Governor, granted Whistle-blower protection and an investigation was subsequently initiated by the OIG.

### **Allegations and Findings:**

#### **Allegation 1:**

*Devereux Program Director Julian Green, manager of the Placement Unit, put children "in harms way" for sexual assault by allowing an alleged juvenile sexual offender to be placed in the same foster home. If supported, the allegation would constitute a violation of Rule 65C-13.015 (1) and (2)(b), F.A.C.<sup>7</sup>; Rule 65C-28.004 (1) and (11)(a)2., F.A.C.; Section III.D. of FSMO Case Assignment Unit Policy; Article II 2.1 and Attachment I of Contract #CM803 between FSMO and Devereux Foundation of Florida; and Devereux Foundation of Florida Standards of Conduct.*

#### **Findings:**

The information obtained *supports* the allegation.

---

<sup>6</sup> The Overcapacity Waiver Request allowed child 1 to be placed in Mr. and Ms. Burt's foster home, even though they were only licensed for two children and already had two children in their home.

<sup>7</sup> This Rule was repealed on April 6, 2008 but was in effect at the time of the incident. This footnote will apply throughout this report whenever Rule 65C-13.015 is cited.

Devereux Family Case Manager (FCM) Mabel Roa placed child 1 and child 2 with their aunt, [REDACTED], in Puerto Rico on September 28, 2006. She conducted two more trips (in late November 2006 and late January 2007) to Puerto Rico to perform visits with child 1 and child 2 at [REDACTED] home. Ms. Roa explained that she speaks Spanish, has family in Puerto Rico, and had performed home visits for other foster children living in Puerto Rico, so she conducted child 1 and child 2's home visits, even though the case was assigned to FCM Michelle Scott.<sup>8</sup> Ms. Roa related that near the end of August 2007, she spoke with [REDACTED] via speakerphone with Ms. Scott present. Ms. Roa explained that the conversation, which occurred in Spanish, consisted of [REDACTED] stating that her adult daughter, [REDACTED], alleged child 1 had "molested" [REDACTED] daughter and two other female cousins (ages 4-7). Ms. Roa said that [REDACTED] stated she did not believe the claim made by [REDACTED] because the children were always in her ([REDACTED]) sight. Ms. Roa said [REDACTED] wanted to keep child 1, but [REDACTED] said the other children were not going to come to [REDACTED] home if child 1 was present. Consequently, [REDACTED] said child 1 had to leave her home.

Ms. Roa further stated she and Ms. Scott spoke with [REDACTED] on the day after speaking with [REDACTED] (about August 30, 2007), at which time [REDACTED] claimed child 1 "molested" her daughter as well as two other female cousins. Ms. Roa explained that [REDACTED] did not elaborate as to how many times the molestation might have occurred; however, she stated that child 1 touched the relatives in their "private parts." [REDACTED] also said that child 1 had "sexually acted out" with a dog, but did not provide further details. Ms. Roa stated that she translated to Ms. Scott everything exactly as it was stated by [REDACTED] and [REDACTED]. Ms. Roa said that upon learning of the allegations, she and Ms. Scott informed Devereux FCM Supervisor Jennifer Peterson (Ms. Scott's supervisor) of all details provided by [REDACTED] and [REDACTED] on the same day of their conversation with each of child 1's relatives.

When interviewed by a Spanish speaking OIG Investigator via telephone, [REDACTED] (child 1 and child 2's aunt) stated that in August 2007, she informed Ms. Roa that child 1 had to be removed from her home because she feared for the safety of her three granddaughters who occasionally visited her home and were all younger than child 1 (ages 4, 4, and 7 years). She was afraid that if child 1 stayed in her home, she would no longer be permitted to see her granddaughters. [REDACTED] explained that her granddaughters had informed her about several incidents (number unknown), which they described as child 1 pulling down their panties, showing them his penis, and rubbing his penis against them. [REDACTED] stated all three granddaughters denied being penetrated in any way by child 1. [REDACTED] further stated that she did not know anything about child 1 having any contact of a sexual nature with a dog.

Devereux FCM Michelle Scott said that around the end of August 2007, she was present during a telephone call between [REDACTED] and Ms. Roa. Ms. Roa translated that [REDACTED] daughter ([REDACTED]) saw child 1 touching two younger females in a "sexually inappropriate" manner. [REDACTED] said she did not see child 1 exhibit the behavior and did not go into any further details regarding the allegation. However, Ms. Roa also said [REDACTED] stated child 1 had done something inappropriate with a family dog, but Ms. Scott could not recall specifics. Ms. Scott stated she had no conversations with the caregiver's daughter, [REDACTED].<sup>9</sup> On the same day of the conversation with

<sup>8</sup> FSN Case ID #106916 regarding child 1 and child 2 was transferred to Ms. Roa on March 5, 2008.

<sup>9</sup> [REDACTED]

██████████, Ms. Scott told Devereux Placement Counselor Elizabeth Capo all of the information she learned during the telephone call. She also informed Ms. Capo that ██████████ did not see child 1 perpetrate sexual abuse on the other children and that she (Ms. Scott) was not sure if the allegation against child 1 was true. Ms. Scott explained that child 1 returned to Orlando, Florida on September 3, 2007 and, on the same day, she transported child 1 to the Burt foster home. Ms. Scott said she did not discuss removing child 3 and child 4, who were already living in the Burt foster home, with Ms. Capo, nor did she herself consider moving child 3 and child 4 out of the Burt home. Ms. Scott said that “everyone’s mindset” was that the unfavorable information regarding child 1 in Puerto Rico was unconfirmed and that made a difference in how she viewed child 1’s situation. Additionally, she relied on the Devereux Placement Unit to find the most appropriate placement for child 1. Ms. Scott said she would have raised her concerns if she did not feel the Burt foster home was the most appropriate placement for child 1.

Devereux Placement Counselor Elizabeth Capo related that Ms. Scott approached her around the end of August 2007 and informed her that child 1 was returning from Puerto Rico. Ms. Scott stated to her that child 1’s aunt in Puerto Rico could no longer keep child 1 because the aunt’s daughter told the aunt that child 1 “touched” the aunt’s granddaughter. Ms. Capo said she asked Ms. Scott if the allegation was true, to which Ms. Scott responded that she did not know, but the aunt’s daughter did not get along with child 1 and wanted him to leave. Ms. Scott also informed her that she was not sure if there was going to be a police investigation conducted in Puerto Rico. Ms. Capo said she immediately verbally informed Devereux Program Director Julian Green about the information obtained by Ms. Scott and that child 1 was coming back to Florida. According to Ms. Capo, Mr. Green indicated that child 1’s file should be placed in a red folder signifying an allegation of sexual abuse and to implement a safety plan,<sup>10</sup> pending the police investigation in Puerto Rico. Ms. Capo further explained that at that point, no one knew if the allegation against child 1 was factual and that the accusation could be a result of family dynamics in Puerto Rico. Ms. Capo said she contacted Mr. and Ms. Burt before calling other foster parents, as she was aware that they were previously child 1’s foster parents and had been interested in adopting child 1 and his brother (child 2). Ms. Capo claimed that she explained everything to Ms. Burt that Ms. Scott had told her, specifically, she told Ms. Burt that the caregiver’s daughter had said that child 1 touched a younger child, to which Ms. Burt responded that she did not believe the allegation. Ms. Capo said she told Ms. Burt they could not leave child 1 unattended with younger children; that child 1 needed his own room; and that she and her husband needed to “be careful.” Ms. Capo stated she informed Ms. Burt that even though the allegation against child 1 had not been verified, Devereux would be instituting a safety plan to ensure that child 1 was supervised at all times. Ms. Capo said Ms. Burt kept repeating during their conversation that she did not believe the allegation.

Foster Parent Rebecca Burt stated that on either August 30 or 31, 2007, she received a telephone call from Devereux Placement Counselor Elizabeth Capo. Ms. Burt said that Ms. Capo told her she wanted to let her know child 1 was returning to Orlando from Puerto Rico on Labor Day weekend (September 1-3, 2007) and that she (Ms. Capo) knew Ms. Burt and her husband would want the first opportunity to have child 1 back in their home. Mr. Burt added that he and his wife had made it clear they would be interested in having child 1 return to their home if he came back to Florida. Ms. Burt said she asked Ms. Capo why child 1 was returning without child 2. Ms. Capo told her there was an allegation “of

<sup>10</sup> Rule 65C-30.001 (123), F.A.C., states that a “Safety Plan” means the specific course of action that is determined necessary to control threats of serious harm or supplementing a family’s protective capacities implemented immediately when a family’s protective capacities are not sufficient to manage immediate or serious harm threats.

some sort” by a family member and that child 1 and child 2’s aunt in Puerto Rico had to make a decision between seeing her adult daughter again or keeping child 1. Ms. Burt said that according to Ms. Capo, the aunt made the decision to send child 1 back to Florida. Ms. Burt said that Ms. Capo also told her that child 2 was given the option of coming back, but decided to stay in Puerto Rico. Ms. Burt stated Ms. Capo said the aunt’s adult daughter had made an allegation regarding child 1 and that it involved child 1 touching his three or four-year-old cousin. Ms. Burt said Ms. Capo indicated that the issue raised by the aunt’s adult daughter was merely an allegation and no one knew if it was true. Ms. Burt remarked that it seemed Ms. Capo was “downplaying” what happened in Puerto Rico and emphasizing the fact that “it was just an allegation.” Ms. Burt also recalled telling Ms. Capo that she could not imagine child 1 “doing something like that,” but that Ms. Capo was not specific about what had happened in Puerto Rico. Ms. Burt could not recall if Ms. Capo mentioned anything about implementing a safety plan. Ms. Burt said Ms. Capo never stated there might be a police investigation regarding the allegation against child 1.

Devereux FCM Christina Battistone (child 3 and child 4’s case manager) stated that she felt uncomfortable about child 1 being placed in the Burt foster home, even though the allegation against child 1 in Puerto Rico had not been substantiated. Ms. Battistone explained that she was concerned that child 3 and child 4 might be sexually abused by child 1 if child 1 was placed in the Burt home since child 3 and child 4 were younger than child 1. Ms. Battistone said that something about child 1’s return to Florida “did not seem right,” as she believed that the sexual abuse incident must have happened since the relative in Puerto Rico wanted to keep child 1’s brother (child 2), but did not want to keep child 1. She said she felt that even though the allegation against child 1 had not been proven, there was a chance it had substance. Ms. Battistone said she did not inform anyone about her concern for child 3 and child 4. She elaborated that she did not talk to her supervisor because the placement was not yet official when she was told child 1 could be placed at the Burt home. She also said she did not inform anyone of her concern after child 1 was placed because she believed that Mr. and Ms. Burt are “really good.” Ms. Battistone stated that without going into any detail, she informed Ms. Burt to be careful and not to leave child 1 unsupervised. Additionally, Ms. Battistone said she did not talk to anyone about the placement of child 1 in the Burt’s home due to her lack of experience and not realizing that voicing her concern might make a difference.

Department Circuit 9 Child Protective Investigator William Procknow stated that in October 2007, he investigated the “sexual abuse” perpetrated by child 1 on child 3 and child 4 in the Burt foster home. Mr. Procknow felt that child 1 should never have been placed in a home with two [REDACTED] children like child 3 and child 4, and that child 1 should not have been placed in the home until all information regarding what had occurred in Puerto Rico was received and clearly understood by all parties. According to Mr. Procknow, even if there was a remote possibility of sexual abuse, child 1 should not have been placed in the home with other children. He also said that because the relative in Puerto Rico kept child 2, this should have been a “red flag” indicating there was a significant issue with child 1 that needed to be addressed.

Department Circuit 9 Child Protective Investigator Supervisor Victor Kruppenbacher (Mr. Procknow’s direct supervisor) explained that during a staffing on November 1, 2007, Devereux Program Director Julian Green acknowledged that a Family Safety Contract<sup>11</sup> had been put in place for child 1.<sup>12</sup> Mr.

<sup>11</sup> The Family Safety Contract (commonly referred to as a safety plan) is included as Appendix A to CFOP 175-88.

<sup>12</sup> On September 3, 2007, a safety plan was initiated for child 1’s placement in the Burt foster home.

Kruppenbacher believed Mr. Green must have had concerns about child 1's sexual history or a safety plan would not have been implemented.

Devereux Program Director Julian Green stated he has been in his position for the previous four years and explained that while he manages the Licensing Unit and the Placement Unit at Devereux, there is no direct supervisor over each unit. Mr. Green explained that Devereux Placement Counselor Elizabeth Capo kept him well informed regarding child 1's return to Florida. Mr. Green said that a couple of days before child 1 returned to Florida from Puerto Rico, he became aware that child 1 would be returning due to allegations of a sexual nature concerning a relative's younger child. He stated that at the time, information was sparse and no details of the incident were confirmed. Mr. Green said that since he believed "something sexual" occurred in Puerto Rico, the potential foster parents (Evan and Rebecca Burt) needed to be made aware of the allegations. Therefore, prior to child 1's return to Florida on September 3, 2007, he told Ms. Capo to contact Mr. and Ms. Burt and explain to them that the allegations included "inappropriate sexual behavior". He could not recall if he instructed Ms. Capo to create a safety plan or if she initiated one herself; however, a safety plan was formulated for child 1 and child 1's file was put in a red folder to alert others of safety issues. Mr. Green could not remember if he or Ms. Capo took the initiative to put child 1's placement file in a red folder.<sup>13</sup> He said he had stressed to the Placement Unit staff that cases involving any sexual issues are to be put in red folders, even if only an unsubstantiated allegation exists. He said this is not done to label a child as a victim or aggressor, but instead to "err on the side of caution."

Mr. Green explained he did not believe it was necessary to move the younger children (child 3 and child 4) out of the Burt foster home. Mr. Green added that the ages of child 3 and child 4 were a factor when considering the Burt foster home as a placement for child 1, but that was addressed by the creation of a safety plan. Mr. Green added that Mr. and Ms. Burt were made aware of the allegations and child 1 had his own room. Mr. Green stated that he was not aware of any policy that dictated moving the younger children out of the home. He said he read Paragraph 7.a. of CFOP 175-88 before placing child 1, which states, "Older sexual abuse victims shall not be placed with younger children, if treatment agents or therapists indicate in writing that it is not safe to do so." Therefore, because there was no knowledge of child 1 being a sexual abuse victim, Mr. Green said he felt that Devereux was within the guidelines regarding this placement. Mr. Green further stated that Devereux placement staff cannot put a child in any home until they receive approval from FSMO; therefore, FSMO, not Devereux, has the ultimate determination as to where a child is placed.

Department Chief of Child Protective Investigations John Harper advised that a safety plan was required for child 1 as child 1 meets the statutory definition of an "alleged juvenile sexual offender" in § 39.01 (7)(b), F.S. This statute explains that an alleged juvenile sexual offender is, "A child who is alleged to have committed any violation of law or delinquent act involving juvenile sexual abuse."<sup>14</sup> Furthermore, Rule 65C-28.004 (11), F.A.C., which provides detailed information as it relates to the placement of children who are alleged juvenile sexual offenders, would apply to child 1. The code states the person making the placement shall ensure that the child is the youngest child placed in the home unless the placement is a treatment facility with adequate video monitoring.

<sup>13</sup> It is noted that child 1's placement file was placed into a red folder on or about September 3, 2007.

<sup>14</sup> According to § 39.01 (7)(b), F.S., "Juvenile sexual abuse" means any sexual behavior which occurs without consent, without equality, or as a result of coercion. Juvenile sexual offender behavior ranges from noncontact sexual behavior such as making obscene phone calls, exhibitionism, voyeurism, and the showing or taking of lewd photographs to varying degrees of direct sexual contact, such as frottage, fondling, digital penetration, rape, fellatio, sodomy, and various other sexually aggressive acts."

Department Director of Family Safety Patricia Badland advised that a safety plan should have been implemented immediately upon child 1's return to Orlando from Puerto Rico, as the allegation regarding child 1 sexually abusing younger children while in Puerto Rico was strong enough to necessitate a safety plan. According to Ms. Badland, a full disclosure as to why child 1 was removed from the relative placement in Puerto Rico was needed. Ms. Badland related that there is a single, statewide, standardized, pre-service training curriculum given to all child welfare professionals prior to certification. Ms. Badland indicated that all trainees receive general instructions on safety plans and specific instructions regarding child-on-child sexual abuse allegations. Ms. Badland said that contractors cannot alter the training curriculum, nor can they omit any of the instruction modules.<sup>15</sup>

The FSMO Contract (#CM803) with Devereux (July 1, 2007 to June 30, 2008) states that, "The provider [Devereux] shall be responsible for supervision and placement for eligible children, 24 hours a day, 7 days per week and shall follow the [FSMO] Case Assignment Unit (CAU) Protocol. An initial placement or change in placement must be approved by the CAU prior to the child being initially placed or moved to a new placement."

CAU Protocol states, in part:

- "Initial placements and all movements of children must be authorized by the CAU prior to placement of the child. The unit provides oversight on the assessment and placement of children. The unit works with the Placement/Intake Units of each Case Management Organization (CMO). The CMO's placing units are responsible for securing the placement with the caregiver (foster, shelter, group)."

FSMO Case Assignment Specialist Susan Wujastyk explained she is responsible for issuing funding letters, known as E-Notes, when a child is going to be moved into a placement. She recalled that Devereux Placement Counselor Elizabeth Capo contacted her by telephone on August 31, 2007 regarding a placement for child 1.<sup>16</sup> On September 5, 2007, Ms. Wujastyk generated the E-Note for child 1's placement in the Burt foster home.

FSMO Assistant Director of Operations Sharmaine Brann-James (Ms. Wujastyk's supervisor) explained that E-Notes signify that FSMO has approved the funding for placement of a child in licensed foster care. She said that the Case Management Organization (CMO) Placement Unit (Devereux in this case) is responsible for ensuring that the placement follows proper policies, as they make the first contacts with the foster homes, have the details regarding the types of foster homes they license, know the number of children for which each home is licensed, and are aware of the children already living in the home. Ms. Brann-James said the expectation is that the CMO is making the placement pursuant to Department CFOP 175-88 and that the CMO is responsible for taking action to move younger children out of a home if it was determined that an older child will be placed there and the older child could present a risk to the younger children. Ms. Brann-James further explained that even if there is only an unsubstantiated allegation of sexual behavior involving a child, the Devereux Placement Unit violated CFOP 175-88 in this case and did not err on the side of caution, as child 1 should have been the youngest child in the foster home. She believed that Devereux staff must have considered the allegation against child 1 to be true because a safety plan was in place. She added that

<sup>15</sup> FSMO Training Coordinator Lori Yiaski confirmed that Mr. Green received his certification during November 2000 (exact date unknown) and could not have obtained the certification without completing the training curriculum. Ms. Yiaski advised that FSMO does not alter the training curriculum in any way.

<sup>16</sup> In an e-mail sent by Ms. Capo to Ms. Wujastyk and Ms. Kryszan, dated August 31, 2007, the allegation concerning child 1 and the reason for child 1's return to Florida was noted.



the procedures for placing children must be followed during every placement and that it was not an argument to say that CFOP 175-88 was not followed because the allegation against child 1 was unconfirmed.

Department Circuit 9 Contract Manager Christine Barbary explained that as the Contract Manager, she is the contact individual for both FSMO and Devereux whenever clarifications of policies or procedures are needed. She stated she was not contacted by any individuals from either FSMO or Devereux for clarification of CFOP 175-88 and the placement of child 1. With regard to the contracts, Ms. Barbary made it clear that Devereux is the contractually responsible party for placements and it is Devereux's responsibility to clarify with FSMO any areas of question regarding placements. Ms. Barbary indicated that as the Case Management Organization (CMO) for FSMO, Devereux is responsible for their placement unit securing the placement with the caregiver. She explained that FSMO provides the funding approval function for the CMO; however, it is the responsibility of the CMO to alert FSMO if there are any concerns regarding the placement of a child. Ms. Barbary indicated that if either organization had a question of the policy (CFOP 175-88) and its application, both FSMO and Devereux are aware that they can contact her (Ms. Barbary) for that assistance. She confirmed that CFOP 175-88 is a policy contained within Devereux's contract with FSMO; therefore, Devereux is contractually bound to adhere to its edits.

**Allegation 2:**

*Devereux Family Case Manager Michelle Scott and Devereux Placement Counselor Elizabeth Capo failed to provide written detailed and complete information regarding a child's sexual history to foster parents. If supported, the allegation would constitute a violation of § 409.145 (7), F.S.; Rule 65C-13.015 (2)(a), F.A.C.; Rule 65C-28.004 (11)(a)3., F.A.C.; Rule 65C-30.011 (1), F.A.C.; Paragraph 4.i, CFOP 175-34; Section III.D. of FSMO Case Assignment Unit Policy; Article II 2.1 and Attachment I of Contract #CM803 between FSMO and Devereux Foundation of Florida; and Devereux Foundation of Florida Standards of Conduct.*

**Findings:**

The information obtained *supports* the allegation.

According to Department Chief of Child Protective Investigations John Harper, the following policy outlines what should be provided to caregivers of alleged juvenile sexual offenders:

**Rule 65C-28.004, F.A.C.:**

(11) Placement of Children Who Are Alleged Juvenile Sexual Offenders, Exhibiting Sexually Inappropriate Behaviors<sup>17</sup> or Who Are Sexually Reactive.<sup>18</sup>

(a) When it is necessary to place a child who is an alleged juvenile sexual offender and is exhibiting or has exhibited sexually inappropriate behaviors, or who is sexually reactive, the person making the placement shall:

3. Provide the caregivers with written detailed and complete information regarding the

<sup>17</sup> Rule 65C-30.001 (18), F.A.C., states that a "Child Exhibiting Sexually Inappropriate Behaviors" means a child having demonstrated some action found under the terms and definitions of an alleged juvenile sexual offender, but without an established pattern of behavior sufficient to define the child as an alleged juvenile sexual offender.

<sup>18</sup> Rule 65C-30.001 (128), F.A.C., states that a "Sexually Reactive Child" means a child who, as a consequence of having been sexually abused, may be sexually preoccupied, or engaging in identified sexualized behaviors with or without a defined pattern, and thereby demonstrates some level of risk to others.

circumstances surrounding the child's abusive/reactive behavior so that they can avoid any unwitting replication of those circumstances. Information given to caregivers shall include, but is not limited to, the dates of all known incidents; the nature of the relationship between the child and victim; the types of behavior exhibited; a brief narrative outlining the event; the types of treatment provided and treatment outcomes.

When asked whose responsibility it would be to complete the safety plan and ensure that its content was accurate and complete, Mr. Harper indicated that considerations should be made as to who knows the child and the situation best, and who made the decision about the placement, specifically that it was a safe environment. Mr. Harper explained that the placement coordinator would know what the foster parents have dealt with in the past, what they can handle, and the environment of the home. According to Mr. Harper, the primary responsibility to ensure that the foster parents receive written detailed and complete information would rest with the placement coordinator; however, both the placement coordinator and the case manager would be jointly responsible. He indicated that the person delivering the safety plan with knowledge of the situation and what was contained in or missing from the plan should ensure that all information is in the plan or, at a minimum, immediately notify the foster parents of the missing details.

Devereux Placement Counselor Monique Lowery said that a safety plan is implemented whenever there is any type of sexual allegation. She stated that the form used is contained in Department CFOP 175-88 and that instructions specific to a certain child can be handwritten on the form. Ms. Lowery said that when she previously worked as a FCM, she would make entries to the safety plan and go over the safety plan with the foster parents present. Ms. Lowery said that the Placement Unit reminds the FCM that a safety plan must be instituted, but it is the FCM's responsibility to make sure that the foster parents are aware of all history and behaviors regarding a child. Ms. Lowery further stated that Placement Unit staff should also inform potential foster parents of everything they know about why a child is seeking a new home. She elaborated that the Placement Unit staff only report what they know to the foster parent and since the FCM knows the child best, the FCM is responsible for making sure that everything about the child is explained to the foster parents.

The following rules outline responsibilities regarding safety plans:

**Rule 65C-28.004, F.A.C.:**

(11)(a)5. In partnership with the caregiver, outline a written safety plan to handle any special issues identified in the child's history and assessment.

**Rule 65C-30.001, F.A.C.:**

(123) The safety plan is jointly developed by a CPI and/or a services worker and the family.

Devereux Placement Counselor Elizabeth Capo stated it is the FCM's responsibility to inform the caregivers of the issues concerning a child because they are the most knowledgeable about the child's history. When she called Rebecca Burt to see if Ms. Burt would want child 1 back in her foster home upon child 1's return to Florida in September 2007, she explained to Ms. Burt everything that Devereux FCM Michelle Scott had told her. Specifically, she told Ms. Burt that the daughter of child 1's aunt in Puerto Rico had said child 1 "touched" a younger child, to which Ms. Burt responded that she did not believe the allegation. Ms. Capo said she told Ms. Burt that they (Ms. Burt and her husband) could not leave child 1 unattended with younger children (child 3 and child 4), child 1

needed his own room, and that they needed to “be careful.” Ms. Capo stated she informed Ms. Burt that even though the allegation had not been verified, Devereux would be instituting a safety plan to ensure that child 1 was supervised at all times. She indicated that she also informed Ms. Burt about child 1 allegedly acting out sexually with the family dog in Puerto Rico. Ms. Capo said she completed the safety plan on her own without consulting Ms. Scott because Ms. Scott had already informed her of the specific details concerning child 1’s alleged sexual activities in Puerto Rico. She said that upon completion, she provided it to Ms. Scott on September 3, 2007. She informed Ms. Scott that she needed to review the safety plan with Mr. and Ms. Burt and explain to them that child 1 could not be in a room alone with child 3 and/or child 4. When asked why she did not include the specific details about child 1’s alleged sexual activities in Puerto Rico in the safety plan, Ms. Capo responded, “That’s a good question. I just didn’t put that information in there. We just filled out the basic stuff.” Ms. Capo could not explain why she completed the safety plan rather than Ms. Scott, other than to say that she was “working on the case”. She said a safety plan is used when there is an allegation that a child has been sexually victimized or a child perpetrates sexual abuse on another child, but that it is a “gray area” as CFOP 175-88 states that the safety plan is only “recommended”<sup>19</sup> in those situations. Ms. Capo further related that she was unaware of the requirements of 65C-28.004 (11)(a)3., F.A.C., stating that “If it was around, it wasn’t enforced.”

Foster Parent Rebecca Burt stated that on either August 30 or 31, 2007, she received a phone call from Ms. Capo, who told her that child 1 would be returning to Orlando on Labor Day weekend (September 1-3, 2007). Ms. Capo told her that she knew Ms. Burt and her husband (Evan Burt) would want the first opportunity to have child 1 back in their home. Ms. Burt said she asked Ms. Capo why child 1 was returning without his brother (child 2), to which Ms. Capo replied that child 1’s relative had made an allegation about child 1 “touching” a three or four-year-old cousin. According to Ms. Burt, Ms. Capo was not specific about what had happened in Puerto Rico and added that the issue raised by child 1’s relative was merely an allegation and no one knew if it was true. Ms. Burt remarked that it seemed Ms. Capo was “downplaying” what had happened in Puerto Rico and emphasizing that “it was just an allegation.” Ms. Burt recalled telling Ms. Capo that she could not imagine child 1 “doing something like that.” Ms. Burt said they were never made aware of anything about child 1 allegedly “engaging in inappropriate behavior” the family dog in Puerto Rico. Ms. Burt related that on September 3, 2007, Devereux FCM Michelle Scott brought child 1 to her home. Ms. Burt stated that based on Ms. Scott and Ms. Capo telling her that the Puerto Rico allegation concerned a young child, and because a safety plan had been implemented, she thought that the allegation might have been sexual in nature.

Foster Parent Evan Burt was present during the interview of Ms. Burt and confirmed Ms. Burt’s account of what Ms. Scott told them when Ms. Scott brought child 1 to their home on September 3, 2007. Mr. Burt added he felt that Devereux instituted the safety plan for child 1 “as a technicality” and that Devereux needed to implement the safety plan because an allegation had been made. Mr. Burt said that he believed if Devereux staff was aware that child 3 and child 4 were in danger, the safety plan should have been more detailed and targeted specifically at child 1.

Department Circuit 9 Child Protective Investigator William Procknow said he believed that the Devereux staff members involved in the placement of child 1 in the Burt foster home in September 2007 should have been more forthcoming and not so vague with Mr. and Ms. Burt about what child 1 allegedly did in Puerto Rico. Mr. Procknow explained that while he was investigating the sexual abuse

---

<sup>19</sup> Paragraph 7.h., CFOP 175-88, states that “The Family Safety Contract ... is recommended for use with a substitute caregiver when a child known to have been sexually victimized or a child who is sexually aggressive is placed with them.”

of child 3 and child 4 by child 1 at the Burt home in October 2007 (Intake #2007-479757), no one from Devereux stated specifically what they were aware of regarding child 1's alleged sexual abuse of a relative in Puerto Rico. Mr. Procknow believed that Devereux staff must have known something of a sexual nature had allegedly occurred since they instituted a safety plan. Mr. Procknow noted, however, that the safety plan made no mention of child 1's sexual history.

Department Circuit 9 Child Protective Investigator Supervisor Victor Kruppenbacher described the safety plan for child 1 in the Burt home as "boiler plate" because it did not contain any detail as to why child 1 could not be left without supervision, nor did it contain any information about child 1's sexual history.

Devereux FCM Michelle Scott stated that she and Mr. and Ms. Burt read the safety plan together on September 3, 2007, at which time she informed Mr. and Ms. Burt about everything that child 1's aunt in Puerto Rico (██████████) had stated concerning the allegation against child 1. Ms. Scott claimed that she specifically told Mr. and Ms. Burt that her (██████████) daughter (██████████) saw child 1 "touching" two younger female children in a "sexually inappropriate" manner. Ms. Scott said she stressed to Mr. and Ms. Burt that even though the information was unconfirmed, they had to follow the safety plan and monitor child 1 at all times due to the two younger children (child 3 and child 4) being in their home.

The copy of the safety plan<sup>20</sup> provided by Ms. Scott to Mr. and Ms. Burt (made available to the OIG Investigator by Mr. and Ms. Burt) was the standard Family Safety Contract contained in Appendix A of CFOP 175-88. The safety plan had signatures in the names of Rebecca and Evan Burt as the caregivers and Devereux FCM Michelle Scott as the Family Service Counselor all dated September 3, 2007; the space set aside for the date and signature of the Family Service Counselor Supervisor was blank. The safety plan did not contain any information about alleged sexual abuse involving child 1. The only entries added to the safety plan consisted of child 1's handwritten name in the two parts quoted below:

██  
██

The Devereux case file regarding child 1 contained the same safety plan provided to Mr. and Ms. Burt (described above); however, the form in the case file also had a signature in the name of Devereux Family Case Manager Supervisor Jennifer Peterson<sup>21</sup> dated September 4, 2007 in the space set aside for the Family Service Counselor Supervisor, along with the following additional entries (handwritten entries are quoted in italics):

██  
██  
██  
██

<sup>20</sup> The OIG Investigator confirmed with Ms. Burt via telephone on August 28, 2009 that this safety plan was the only version they received. According to Ms. Burt, neither she nor her husband ever received an amended version of this plan for child 1.

<sup>21</sup> During interviews with the OIG Investigator on January 18, 2008 and March 12, 2008, Ms. Peterson could not recall providing specific instruction to Ms. Scott.

[REDACTED]

The Devereux Placement Request for child 1 was signed by Ms. Scott on August 30, 2007 and contained the following quoted entries in pertinent parts (handwritten entries are in italics<sup>22</sup>):

- [REDACTED]
- [REDACTED]

Devereux Placement Counselor Elizabeth Capo stated she made the above entries to the safety plan after Mr. and Ms. Burt signed it. She said the entries she made were intended as notes to herself regarding the pending investigation in Puerto Rico and the need for the safety plan as a precautionary measure. She explained she did not want to label child 1 as a sexual abuse perpetrator because it had not yet been determined if he had committed the alleged act. Ms. Capo explained that although not normally done, she might add notes to a safety plan after it is signed by the caregivers, but she does not add allegations or details pertaining to a child's specific risk factors.

Devereux Program Director Julian Green explained that the FCM is responsible for providing and reviewing the safety plan with foster parents. However, the Placement Unit assists FCMs and asks them if they need a copy of the safety plan when one is required for a certain placement. As to why no details regarding the sexual allegations made against child 1 were written in the safety plan for the Burt foster home, Mr. Green stated that at the time child 1 went to the Burt foster home, Devereux did not have a lot of information about the Puerto Rico incident and were told that the allegations had not been confirmed. Mr. Green said that if anything is added to a safety plan after it is signed, a new safety plan should be completed. He stated he was not aware of Ms. Capo adding information to safety plans after they were signed by the caregivers. According to Mr. Green, Mr. and Ms. Burt should have re-signed child 1's safety plan after Ms. Capo added information to it.

### **Allegation 3:**

*Devereux Program Director Julian Green, manager of the Placement Unit, put a child "in harms way" for sexual assault by allowing him to be placed in the same foster home as an older child known to be a sexual offender. If supported, the allegation would constitute a violation of Rule 65C-13.015 (1) and (2)(b), F.A.C.; Rule 65C-15.021 (3)(a), F.A.C.; 65C-28.004 (11)(a)2. F.A.C.; Section III.D. of FSMO Case Assignment Unit Policy; Article II 2.1 and Attachment I of Contract #CM803 between FSMO and Devereux Foundation of Florida; and Devereux Foundation of Florida Standards of Conduct.*

### **Findings:**

The information obtained *supports* the allegation.

During the investigation of FSFN Intake #2007-479757 (initiated on October 13, 2007), child 1 disclosed to Department Circuit 9 Child Protective Investigator (CPI) William Procknow that he had

<sup>22</sup> It was noted that the safety plan did not include any of this information.

been sexually abused while living at the Vera Key foster home by child 5. Mr. Procknow said child 1 admitted to him that he had not previously told anyone about being sexually abused in the Key home.

According to information contained in the protective supervision records pertaining to child 1 and child 5, child 5 lived at the Key home from April 23, 2005 to May 25, 2006 and child 1 lived at the Key home from June 1, 2005 to July 15, 2005 and again from October 31, 2005 to March 31, 2006.

FSMO Assistant Director of Operations Sharmaine Brann-James explained a child placement process as follows:

FSMO Case Assignment Specialist Susan Wujastyk in the Case Assignment Unit (CAU) receives intake telephone calls from Department CPIs or placement units at a FSMO Case Management Organization (CMO), such as Devereux, regarding children seeking a placement. If the call is from a CPI, Ms. Wujastyk assigns a CMO Placement Unit to a child's case based on the zip code of the home where the child was removed. Once the CMO Placement Unit locates a placement for the child, they call the CAU for authorization.

Devereux Placement Counselor Elizabeth Capo said that when a CPI seeks placement for a child, the CPI contacts the CAU, who informs the proper CMO Placement Unit of the need for a child placement. A Placement Unit counselor contacts the CPI who provides basic information about the child and the reason for seeking placement. After the Placement Unit finds a placement for the child at one of their facilities, they contact the CAU, who informs the CPI where to take the child.

Devereux FCM Evita Santana related that child 5 was arrested for "molesting" his 3-year-old cousin and was subsequently placed at the Key foster home on April 23, 2005 (FSFN Intake #2005-369704). Ms. Santana explained that when she became child 5's FCM on May 5, 2005, she expected that a safety plan was already in place for child 5. Ms. Santana said she did not remember asking anyone if a safety plan had been implemented. Ms. Santana stated she did not recall child 1 ever living at the Key home. Ms. Santana indicated that she learned during her initial training period (September and October 2004) that safety plans are used to guarantee that precautions are taken to ensure the safety of children in a certain home. She said she did not have any concerns about child 5, did not remember younger children living in the home, and thought that the other children were about the same age as child 5.

FSMO Assistant Director of Operations Sharmaine Brann-James recalled that when she previously worked for Devereux as a Placement Counselor (September 2004 to May 20, 2005), she found a placement for child 5 at the Key home sometime around late 2004 or early 2005. Ms. Brann-James said her direct supervisor at that time was Devereux Program Director Julian Green. Ms. Brann-James said she did not place child 1 at the Key home on June 1, 2005, and was not sure who did.<sup>23</sup> Ms.

<sup>23</sup> It was noted that Department Circuit 9 Child Protective Investigator Marc Porrata wrote in his chronological notes on June 1, 2005 for FSFN Intake #2005-392416 that child 1, "[REDACTED]" indicating child 1 was placed by Mr. Porrata. According to FSMO Case Assignment Unit Specialist Susan Wujastyk, FSMO has no records prior to July 15, 2005 for child 1 to determine who the Devereux placement counselor was that contacted the Case Assignment Unit to inform when placement was secured for child 1 at the Key home on June 1, 2005. Additionally, Ms. Capo said that there are no Devereux records to reflect the name of the placement counselor who found the placement for child 1 at the Key home. Department Director of Family Safety Patricia Badland advised that the standard template used by the Department in preparing contracts with lead community-based care agencies (like FSMO) does not require that a complete set of records for each child receiving services be maintained.

Brann-James stated she informed Ms. Key of child 5's sexual history, that child 5 was supposed to be in a room by himself, and should have been the youngest child at the home. Ms. Brann-James explained that she also notified Mr. Green of child 5's sexual history sometime after child 5's placement was completed. Although she could not recall the specific date, Ms. Brann-James indicated that the briefing took place prior to June 2005 because school was still in session and she resigned her position with Devereux in May 2005 to begin working for the Orlando Police Department. Ms. Brann-James said she did not believe that she created a safety plan for child 5, did not recall receiving a safety plan from child 5's FCM, Evita Santana, and did not have an answer as to why a safety plan was not completed.

Devereux Placement Counselor Monique Lowery, who was the initial FCM for child 1 and child 1's brother (child 2) when they were removed from their relative's home on June 1, 2005, stated she did not recall child 5 living at the Key home when she was conducting visits there with child 1 (from June 1, 2005 to July 15, 2005 and from October 31, 2005 to March 31, 2006). Ms. Lowery said, at that time, she was not aware that child 5 was a "sex offender" and knew nothing about a safety plan for child 5.

According to Rule 65C-28.004 (11)(a), F.A.C., the person making the placement shall ensure that a child who is exhibiting or has exhibited sexually inappropriate behaviors, or who is sexually reactive, is the youngest child placed in the home unless the placement is a treatment facility with adequate video monitoring.

Devereux Program Director Julian Green has indicated that, although Ms. Brann-James made him aware of child 5's sexual history prior to child 1 being placed in the Key foster home, he believed there was nothing in written policy that would have prohibited child 5 from being placed in a home with younger children, indicating that he was not aware of the requirements set forth in Rule 65C-28.004 (11)(a), F.A.C. Mr. Green further opined that the "rules" in CFOP 175-88 contained provisions that allow a child to be placed in a home where other children in the home may be "victims or aggressors". Mr. Green explained that when child 5 was placed at the Key home, Devereux was not preparing any safety plans. He said it was not until a review (agency who conducted review unknown) of FSMO files (date unknown)<sup>24</sup> that it was learned Devereux was not completing safety plans as required. He stated the Placement Unit assisted FCMs in "catching up" on children's safety plans, which is why he initiated the safety plan for child 5 on February 17, 2006.

Department Director of Family Safety Patricia Badland advised that although CFOP 175-88 does not specifically address the placement of a younger child in the home with an older alleged juvenile sexual offender, 65C-28.004 (11)(a)2., F.A.C.<sup>25</sup> does require that the person making the placement ensure that the alleged juvenile sexual offender is the youngest child placed in that home. Ms. Badland further

<sup>24</sup> According to a FSMO monitoring of Devereux conducted April 22, 2005 to April 29, 2005, "...the initiation of the [Child Endangerment Safety Assessment Protocol] CESAP was slow but continues to improve..." Devereux responded that they have "...been fairly consistent in complying with the CESAP policy...In March we had all staff do new CESAP's on all cases." A FSMO report from a monitoring conducted April 3, 2006 to April 7, 2006 states that 75% of files reviewed had CESAPs completed at required milestones. According to FSMO Policy #FSMO0502, FCMs utilize the CESAP to help determine whether a child is safe or unsafe and, if unsafe, deciding what measures or actions must be taken to assure the safety of the child. The major steps, which are required to apply the protocol, include an assessment and analysis of the safety factors, and implementing and monitoring the safety plan when necessary.

<sup>25</sup> FSMO contract (#CM803) with Devereux requires that the provider be knowledgeable of and fully comply with certain codes, including 65C-28, F.A.C. (Out-of-Home Care).

explained that this code takes precedent over CFOP 175-88. In either case, Ms. Badland indicated that a safety plan must be in place.

**Allegation 4:**

*FSMO Senior Program Specialist Amy Kryszan put children "in harms way" for sexual assault by approving an Overcapacity Waiver Request for an alleged juvenile sexual offender. If supported, the allegation would constitute a violation of FSMO Policy #FSMO614; and Attachment 1 A.2.a. of Contract #GJ160 between the Department and FSMO.*

**Findings:**

The information obtained *does not support* the allegation.

Devereux Placement Counselor Elizabeth Capo said she contacted FSMO Senior Program Specialist Amy Kryszan in August 2007 about returning child 1 to Evan and Rebecca Burt's foster home. She contacted Ms. Kryszan because the Burts were only licensed to have two foster children in their home and since they already had two children in their home, an Overcapacity Waiver Request<sup>26</sup> would be needed to place child 1 there. Ms. Capo said she told Ms. Kryszan everything that Devereux Family Case Manager Michelle Scott had explained to her about the reason for child 1's return to Florida. She informed Ms. Kryszan that the caregiver in Puerto Rico had not seen anything inappropriate and that the allegations against child 1 were made by the caregiver's daughter. She also told Ms. Kryszan that the caregiver had to decide between supporting her daughter or keeping child 1.

FSMO Case Assignment Specialist Susan Wujastyk recalled that Ms. Capo contacted her by telephone on August 31, 2007 regarding a placement for child 1. She asked Ms. Capo to put the details regarding child 1 in an e-mail. The e-mail from Ms. Capo to Ms. Wujastyk (Ms. Kryszan was copied on the e-mail) dated August 31, 2007 states, "The relative stated her daughter told her [child 1] had touched her 3 yr. [sic] old grandchild inappropriately. She also added never seeing child act out on any child(ren) or pet, contrary to what her daughter told her." Ms. Wujastyk responded to the e-mail and asked if there were any sexual issues with child 1. She explained that by asking this question, she was trying to find out if child 1 could be with any other children. She did not receive a response from Ms. Capo, but Ms. Kryszan, who was copied on the e-mail, responded that, "There are no 'documented' sexual issues. It sounds like the relative's daughter may have saw something, but the relative denies seeing anything ever." Ms. Wujastyk said it did not make a difference to her whether the allegation about child 1's sexual history was or was not substantiated. She said Ms. Kryszan is responsible for asking for a safety plan, which she did in an e-mail dated August 31, 2007. Further, Ms. Kryszan was involved and through her (Ms. Wujastyk's) conversations with Ms. Kryszan, she was aware that there was a safety plan in place and that an Overcapacity Waiver Request was granted prior to approving the placement. She stated that if Ms. Kryszan was allowing a child to go into a home with an Overcapacity Waiver Request and a signed safety plan, there was no reason for her to question the placement. Regarding younger children being in the home, Ms. Wujastyk said she relies on Ms. Kryszan to make sure the home is safe.

The Overcapacity Waiver Request is a FSMO form designed for Case Management Organizations (CMO) (like Devereux). The form is initiated by a CMO representative (Case Manager) and submitted to the CMO's Licensing Manager or Alternate Management Designee for approval or denial. If

---

<sup>26</sup> This form must be completed when there is a need to place a child in a foster home and that foster home is already filled to capacity.



approved, the Licensing Manager or Alternate Management Designee submits the form to FSMO where it is approved or denied by a Senior Program Specialist and the Executive Director or Designee. The Overcapacity Waiver Request for child 1 contains the following quoted information in pertinent parts:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Paragraph 9 of Department CFOP 175-64, Family Foster Home Waivers, states that waivers shall be addressed by Department or Community-Based Care operating procedures. FSMO Policy #FSMO614, Waivers for Foster Homes Over Their Licensed Capacity, states, in part, that waivers will only be considered in any of the following circumstances: "The home is the only resource for a child needing placement, and is the most appropriate placement. The caregivers in this home are the most appropriate for this child or sibling group. The home is effectively working with children already placed in the home and placing additional children in the home will not adversely affect any of the children. To accommodate children returning to care who have previously been in this home."

Devereux Program Director Julian Green stated that in order for a child to be marked as "sexual reactive" or a "sexual aggressor," a professional would have to diagnose the child as such. Since child 1 was not diagnosed for either of those categories, the appropriate boxes were not marked on the Overcapacity Waiver Request for the Burt foster home. He elaborated that at the time the waiver was requested, there was no knowledge that child 1 was either sexually reactive or an aggressor. Mr. Green said he read the Overcapacity Waiver Request for the Burt home before signing it and claimed the only information he knew about the situation was the information written in the request.

FSMO Senior Director of Permanency and Operations Sharon Graham (FSMO Senior Program Specialist Amy Kryszan's direct supervisor) stated that in late August 2007, Ms. Kryszan told her that child 1 was returning to a former placement and brought her the Overcapacity Waiver Request to sign. Ms. Graham said she asked Ms. Kryszan for additional information regarding why child 1 was returning from Puerto Rico and Ms. Kryszan replied that child 1 was "sexually inappropriate" with another child. Ms. Graham said she asked if the allegation was confirmed, to which Ms. Kryszan responded that Devereux Placement Counselor Elizabeth Capo explained to her that there was no verification that child 1 had acted inappropriately. Ms. Graham did not recall Ms. Kryszan providing any additional details regarding what happened in Puerto Rico, other than what was written by Ms. Capo in the Overcapacity Waiver Request.

Ms. Graham acknowledged signing the Overcapacity Waiver Request for the Burt home on August 31, 2007 because Mr. and Ms. Burt already knew child 1 and they had expressed interest in adopting child 1. Furthermore, she said she approved the Overcapacity Waiver Request based on Ms. Capo's explanation as to why child 1 was removed from the relative placement in Puerto Rico. Specifically, Ms. Graham indicated Ms. Capo had informed Ms. Kryszan that the daughter of the relative in Puerto Rico did not witness the incident, the allegation had not been verified, and the foster parents had never seen child 1 exhibit inappropriate sexual behavior. At the time, Ms. Graham said she did not look at the ages of child 3 and child 4 as a factor, as her focus was on whether Mr. and Ms. Burt could provide proper supervision and would not leave the children unsupervised. Her understanding was that a safety plan would be instituted, child 1 would have his own room, and Mr. and Ms. Burt would closely supervise child 1. According to Ms. Graham, the Devereux Placement Unit should not have made the placement if it was inappropriate for the other children in the home, as they are the most knowledgeable about the other children in the placement. Ms. Graham stated she would not have approved the Overcapacity Waiver Request if she knew that child 1 was sexually aggressive.

FSMO Senior Program Specialist Amy Kryszan stated that her duties include approving Overcapacity Waiver Requests for foster homes that are licensed for a maximum number of children. She explained that she considers where a child would feel most comfortable as well as the best interests of a child when determining if she will approve an Overcapacity Waiver Request. In regard to child 1's situation, she received a telephone call from Devereux Placement Counselor Elizabeth Capo on August 31, 2007. Ms. Kryszan said Ms. Capo informed her that child 1 and child 2 were placed with their aunt in Puerto Rico and the aunt's adult daughter had claimed child 1 had been "sexually inappropriate" with one of her children, but specifics about the allegation had not been provided. Ms. Kryszan said Ms. Capo added that the aunt stated she had never seen child 1 exhibit sexually inappropriate behavior and did not believe the allegation was true. According to Ms. Kryszan, Ms. Capo presented the situation as the aunt's daughter "sabotaging" the placement. Ms. Kryszan indicated Ms. Capo informed her that Devereux intended to have a safety plan instituted on the first day of child 1's placement at the desired foster home in Orlando and that there was going to be an investigation in Puerto Rico, but Ms. Capo "did not think anything was going to come of it."

Ms. Kryszan further stated that Ms. Capo also informed her during the August 31, 2007 phone call that child 1 had previously been placed in the foster home for which she wanted the Overcapacity Waiver Request; the foster parents had not wanted child 1 to go to Puerto Rico; the foster parents had talked about adopting child 1; and child 1 wanted to go to their home. Ms. Kryszan stated she viewed this home as a permanency option for child 1. Ms. Kryszan stated that if she had been told that there were concerns about child 1 or if the alleged sexual incident in Puerto Rico had been witnessed, it would have made a difference in whether or not she approved the waiver request. Ms. Kryszan said she approved the Overcapacity Waiver Request even though younger children were in the home because it is the responsibility of the FCM and the FCM's agency to consider moving the other children out of the home. Ms. Kryszan said that when she was informed that child 1 was returning from Puerto Rico, she believed the Burt foster home was the best placement for child 1. She indicated that if the Burt home had been licensed for three or more children, she would not have been contacted regarding child 1.

#### **Additional Allegations and Findings:**

During this investigation, it was determined that when child 1 returned from Puerto Rico, child 1 did not receive therapy, as required by Rule 65C-28.004 (11) (b) (c)3., F.A.C., to address the sexual allegations, nor did he receive weekly visits by Devereux, as required by FSMO Policy #FSMO614. Furthermore, information contained in FSFN Intake #2005-369704 revealed that a Devereux FCM was

aware that a sexual aggressor (child 5) was sharing a room with younger children at a certain foster home and failed to take any action.

**Additional Allegation 1:**

*Devereux Family Case Manager Michelle Scott failed to request therapy within the required time limit for an alleged juvenile sexual offender. If supported, the allegation would constitute a violation of Rule 65C-28.004 (11)(b) and (c)3., F.A.C.; Article II 2.1 and Attachment I of Contract #CM803 between FSMO and Devereux Foundation of Florida; and Devereux Foundation of Florida Standards of Conduct.*

**Findings:**

The information obtained *supports* the allegation.

Rule 65C-28.004, F.A.C., states, in part, as follows:

(11) Placement of Children Who Are Alleged Juvenile Sexual Offenders, Exhibiting Sexually Inappropriate Behaviors or Who Are Sexually Reactive.

(b) If any child in need of or currently in out-of-home care has been identified as being sexually abusive toward others, but has not had a clinical consultation with a professional trained in the assessment of juveniles who exhibit sexually inappropriate behaviors, a referral to a clinician with such qualifications shall be initiated by the Services Worker within three working days of the child being so identified.

(c)3. Both the alleged offender and victim shall, within three working days of the child being so identified, be referred to the appropriate mental health provider for assessment if they do not already have therapists.

This investigation determined that child 1 returned to Florida on September 3, 2007. According to documents contained in the Devereux case file pertaining to child 1, on September 3, 2007, child 1 returned to Florida from Puerto Rico; however, a referral form for therapy for child 1 was not initiated until October 16, 2007. The referral form<sup>28</sup> was sent by Devereux FCM Michelle Scott to Devereux Florida Treatment Network Clinical Supervisor Amy Riley. Ms. Scott marked the form as a "New Admission." Documents provided by the Devereux Florida Treatment Network reflect that they initiated a New Referral Form for child 1 on October 17, 2007 and that child 1 was finally admitted into therapy on December 18, 2007. Devereux Florida Treatment Network did not have a record of receiving a therapy referral for child 1 until October 16, 2007.

FSMO Adoption Specialist Jennifer Works said that during the Separation of Siblings staffing on October 9, 2007,<sup>29</sup> Devereux FCM Supervisor Jennifer Peterson and Ms. Scott informed her they had already applied for counseling through Devereux (the Devereux Florida Treatment Network).<sup>30</sup> Ms. Works documented on the Adoption Sibling Separation Staffing Checklist that Ms. Scott was, "[REDACTED]" Ms. Works said she had no further conversation with Ms. Peterson or Ms. Scott to determine if child 1 received the counseling.

<sup>28</sup> This is an internal Devereux form containing a space set aside for only the requestor to print his or her name and sign with no requirement for supervisory approval. The requestor identifies the child needing the treatment on the form, includes the reason for the referral, and submits the form to the Devereux Florida Treatment Network to have centralized arrangements made for the desired treatment. This particular form contained only Ms. Scott's name.

<sup>29</sup> A Separation of Siblings staffing occurs when FSMO has to give approval that siblings are able to be adopted separately.

<sup>30</sup> Treatment counseling was not actually applied for until October 16, 2007.

Devereux Placement Counselor Monique Lowery related that she e-mailed Ms. Scott on October 1, 2007 in response to FSMO Senior Program Specialist Amy Kryszan's e-mail on the same date to her that asked for updates regarding child 1 before approving the Overcapacity Waiver Request.<sup>31</sup> Ms. Lowery said that Ms. Scott responded on October 2, 2007, with information about child 1's status at the Burt foster home and that she had submitted a referral for therapy for child 1.

- Ms. Scott's e-mail dated October 2, 2007 to Ms. Lowery stated, "A referral has been submitted to Devereux [Florida Treatment Network] for a therapist so that [child 1] and [sic] start receiving therapeutic services to help him cope with being separated from his family in Puerto Rico, especially his brother..., and to also help him cope with the new allegations..."

Ms. Lowery further stated that she understood Ms. Scott's e-mail dated October 2, 2007 to mean that Ms. Scott had already submitted a referral for child 1 to receive therapy.

Foster Parents Rebecca and Evan Burt said they started asking Ms. Scott from "Day 1" (September 3, 2007) for her to make arrangements for treatment of child 1. They indicated they were persistent in requesting therapy for child 1 to deal with "whatever happened" in Puerto Rico and for issues that child 1 might experience by being separated from his family. Prior to the abuse report alleging that child 1 had sexually assaulted child 3 and child 4 in the Burt home (received by the Hotline on October 13, 2007), Ms. Scott informed them that she had turned in all the paperwork and that it was not "up to her" to have it approved.

Devereux FCM Supervisor Jennifer Peterson stated she believed it was under discussion between Ms. Scott and her that a therapist would be provided to child 1 after child 1 returned to Florida from Puerto Rico; however, it was not accomplished prior to the sexual abuse occurring at the Burt home. Ms. Peterson did not remember Ms. Works discussing counseling for child 1 during the staffing on October 9, 2007. Ms. Peterson stated that child 1 had not been referred for therapy at the time of the staffing because they did not have proof that the sexual allegations were true and child 1 was "doing stellar" in the Burt home.<sup>32</sup>

Devereux FCM Michelle Scott said that in early October 2007, she discussed obtaining therapy for child 1 with Ms. Burt because child 1's adoption had been disrupted due to his return to Orlando (not because of the sexual allegations). She said she believed child 1 could benefit from therapy, but did not know which agency would have been best for child 1. She stated she called Devereux Best Kids (Devereux Florida Treatment Network) to obtain a referral form, but did not make a referral and did not talk with Devereux FCM Supervisor Jennifer Peterson about obtaining therapy for child 1. Ms. Scott further explained that she did not request therapy for child 1 until October 16, 2007, which was after the sexual abuse occurred in the Burt home. She said her concentration was getting child 1 back into the Burt home and once child 1 was there, he did not exhibit any behavioral issues. Ms. Scott said she never told Ms. Burt that she had requested therapy for child 1 prior to October 16, 2007, and Ms. Burt never asked to obtain therapy for child 1.

<sup>31</sup> The initial waiver was approved for a 30-day period (September 3, 2007 to October 3, 2007). The renewal waiver request was for the next 30-day period (October 3, 2007 to November 3, 2007).

<sup>32</sup> The testimony of Ms. Peterson is in direct contradiction to the testimony of Devereux Placement Counselor Monique Lowery, who informed OIG Investigators that a safety plan is implemented "whenever there is any type of sexual allegation."

Ms. Scott further stated that she could not explain what she meant in her October 2, 2007 e-mail to Devereux Placement Counselor Monique Lowery when she wrote that “a referral has been submitted” for a therapist. Ms. Scott believed she might have intended to say that she had obtained a referral form, but had not yet submitted it. Ms. Scott also could not explain what she meant by “...and to also help [child 1] cope with the new allegations” in the e-mail she wrote to Ms. Lowery, even though she had previously stated to the OIG Investigator that she obtained a referral form because child 1’s adoption had been disrupted due to his return to Orlando, not because of the sexual allegations. She said she believed that during counseling, a therapist might elicit information from child 1 about the alleged sexual abuse that occurred in Puerto Rico and perhaps that is what she intended in her e-mail. Ms. Scott stated again, however, that she referred child 1 to obtain therapy only for the separation issue with his brother (child 2).

Devereux FCM Mabel Roa explained that she speaks Spanish, has family in Puerto Rico, and had performed home visits for other foster children living in Puerto Rico. As a result, Devereux Program Director Tia Llewellyn, FCM Supervisor Jennifer Works, and FCM Monique Lowery asked her to perform a home study on the residence of child 1’s aunt in Puerto Rico. Ms. Roa explained that the aunt contacted her and stated that her adult daughter had made an allegation that child 1 had molested her own child and two other cousins. The aunt stated that she did not believe the claim because the children were always in her sight. Ms. Roa said the aunt was upset because she wanted to keep child 1, but her daughter said she and her child would not come to her (the aunt’s) home anymore if child 1 was there. Consequently, the aunt said that child 1 had to leave her home. Ms. Roa indicated that FCM Michelle Scott was present during this conversation, which occurred via speakerphone.

Ms. Roa further stated that over the next few days<sup>33</sup>, she and Ms. Scott attempted to contact the aunt’s daughter, [REDACTED]. Ms. Roa said that when they were able to speak with [REDACTED], she [REDACTED] was upset and claimed that child 1 was molesting her three-year-old daughter, as well as two other female cousins ages four and six. Ms. Roa explained that [REDACTED] did not elaborate as to how many times the molestation might have occurred; however, she [REDACTED] did state that child 1 touched the children in their “private parts”. [REDACTED] also said that child 1 had acted out sexually with a dog, but did not provide further details. She said her daughter was afraid of child 1 and that child 1 had to leave her mother’s home. Ms. Roa also stated that she translated to Ms. Scott everything exactly as it was stated by the aunt and [REDACTED]

Ms. Roa explained that upon learning of the allegations, she and Ms. Scott informed Devereux FCM Supervisor Jennifer Peterson of all details provided by the aunt and her daughter. Ms. Roa said she did not speak with anyone other than Ms. Scott and Ms. Peterson about the allegations. She could not recall if she informed Ms. Peterson about child 1 acting out sexually with a dog, or if Ms. Scott told Ms. Peterson about that matter.

Ms. Roa explained that Placement Request forms are provided by the FCM to the Placement Unit. She understood that placement staff are required to disclose all known behaviors to a child’s caregiver(s). Ms. Roa said she had no involvement in creating child 1’s safety plan and that the FCM is directly involved in preparing and providing the safety plan to the caregivers. Ms. Roa also stated that she was surprised to learn of the incident at the Burt foster home.

---

<sup>33</sup> It is noted that this testimony conflicts with Ms. Roa’s testimony on Page 3 where she indicated the contact was made “the day after”.

According to Ms. Roa, after hearing that child 1 had been abused at the Key foster home, she mentioned to Ms. Scott that child 2 needed to be assessed for possible therapy services, but that option had not yet been explored. Ms. Roa said that after child 1 had returned from Puerto Rico, she suggested to Ms. Scott that child 1 receive therapy due to the sexual allegations, as well as being separated from his brother, and Ms. Scott replied that she had already submitted the paperwork.

Ms. Roa stated that she was not aware of the requirement to refer child 1 to an appropriate mental health provider for assessment within three working days. She claimed that she had not received any training on this requirement as addressed in Rules 65C-28.004, F.A.C. (11) (b) and (c). She explained that because Ms. Scott was the primary care manager, it would have been Ms. Scott's responsibility to make any necessary referrals. Ms. Roa did acknowledge that her responsibilities as a social worker did not stop just because she was only interpreting for this particular situation.

**Additional Allegation 2:**

*Devereux Family Case Manager Michelle Scott failed to make and document weekly visits with a child on a waiver for a foster home over its licensed capacity. If supported, the allegation would constitute a violation of FSMO Policy #FSMO614; Attachment I of Contract #CM803 between FSMO and Devereux Foundation of Florida; and Devereux Foundation of Florida Standards of Conduct.*

**Findings:**

The information obtained *supports* the allegation.

FSMO Policy #FSMO614, Waivers for Foster Homes Over Their Licensed Capacity, states, in part, that, "A home visit must be conducted weekly by the Family Case Manager of the waived child. Such visits should be documented appropriately."

Devereux Placement Counselor Elizabeth Capo said that she completed the form for the initial Overcapacity Waiver Request for child 1 to be placed in the foster home of Evan and Rebecca Burt. Ms. Capo said she told Devereux FCM Michelle Scott about the request at the time she completed the waiver and also informed Ms. Scott that she was required to perform weekly visits with child 1. Ms. Capo explained that she provided the Overcapacity Waiver Request to Devereux Placement Counselor Monique Lowery to track and request any renewals related to the waiver.

Devereux Placement Counselor Monique Lowery explained that she contacted Ms. Scott (exact date unknown) when the Overcapacity Waiver Request was due to be renewed (October 2007) for child 1. Ms. Lowery related that when she asked Ms. Scott for the dates she conducted weekly visits during September 2007, Ms. Scott replied that she did not know she was supposed to be performing weekly visits with child 1 and the only visit she performed was on September 3, 2007. Ms. Lowery wrote in the Overcapacity Waiver Request that Ms. Scott, "[REDACTED]"

Devereux FCM Michelle Scott stated Ms. Capo never told her that the Overcapacity Waiver Request required weekly visits. She indicated that she was not familiar with the requirements for Overcapacity Waiver Requests and was not aware she was supposed to be conducting weekly visits with child 1 in the Burt home.

**Additional Allegation 3:**

*Devereux Family Case Manager Evita Santana failed to take appropriate action regarding a child sexual perpetrator sharing a room with other children. If supported, the allegation would constitute a violation of Rule 65C-13.015 (2)(b), F.A.C.; Paragraph 7.c., CFOP 175-88; Article II 2.1 and Attachment I of Contract #CM803 between FSMO and Devereux Foundation of Florida; and Devereux Foundation of Florida Standards of Conduct.*

**Findings:**

The information obtained *supports* the allegation.

According to information contained in the protective supervision records pertaining to child 5, child 5 lived at the Vera Key foster home in Orlando, Florida, from April 23, 2005 to May 25, 2006.

Devereux FCM Evita Santana's Chronological Notes Report in FSFN Intake #2005-369704 regarding child 5 while child 5 was living in the Key home contained the following quoted information in pertinent parts:

• [REDACTED]

• [REDACTED]

When shown her chronological notes from November 1, 2005 and December 12, 2005, Ms. Santana stated the reason she wrote in her notes that child 5 shared a room was because Ms. Key had empty extra rooms in the home and there was a possibility that child 5 could have his own room. Ms. Santana admitted she was aware that child 5 had been "sexually abused" while at a group home prior to living with Ms. Key and was also aware that child 5 had become a sexual perpetrator. She further said that she did not speak with her supervisor, FCM Supervisor Christina Michael, about obtaining a separate room for child 5 or with Ms. Key to ensure that child 5 had his own room. Ms. Santana recalled informing Devereux Program Director Julian Green one day in February 2006 (exact date unknown) that child 5 needed his own room, and on the same day, Mr. Green went to the Key home and completed a safety plan.<sup>35</sup> Ms. Santana claimed that prior to Mr. Green raising the issue in February 2006, she was not aware that child 5 needed his own room and could not be in the same room with younger children due to child 5's sexual history. When the OIG Investigator reminded Ms. Santana that she had documented in her notes on November 1, 2005 and December 12, 2005 that child 5 was sharing a room with younger children and that this needed to be addressed due to child 5's sexual offender classification, Ms. Santana responded that she did not want to misinterpret what she wrote over two years ago, so she could not state why she recorded those issues in her notes.

<sup>34</sup> [REDACTED]

<sup>35</sup> Mr. Green indicated that he initiated the safety plan for child 5 on February 17, 2006. Ms. Santana's FSFN notes pertaining to a home visit with child 5 on March 15, 2006 indicate that child 5 "[REDACTED]"



Devereux FCM Supervisor Christina Michael (Ms. Santana's direct supervisor) said she did not recall if there was an official safety plan for child 5, but explained that Ms. Santana's home visits entailed reviewing issues that would have been included in a safety plan, such as making sure that child 5 had his own room.

**Additional Information:**

1. During this investigation, FSMO conducted a Quality Management Priority II Review concerning child 1's placement in the Burt foster home on September 3, 2007. In addition, at the request of the OIG Investigator, the Department Central Region Quality Assurance Unit completed a special review of Devereux cases in Orange County, Florida, which involved children identified as either victims of sexual abuse or as participants in child-on-child sexual abuse.

FSMO Quality Management Priority II Review dated February 8, 2008

The review found that, "...it is apparent that *there are significant safety concerns, placement issues and service provision needs that were overlooked in this case*, which were contributing factors to the sexual abuse of at least three children in foster care." Pertinent excerpts contained in the review are summarized as follows:

- The first safety concern that was not adequately addressed was present within child 5's case. FCM Evita Santana visited the home in November and December 2005 and documented within her case file that child 5 was sharing a room with children younger than him. It is clear based on child 5's criminal history for sexually abusing a young child that he should have never been allowed to share a room with younger children. This safety issue should have also been immediately addressed with Ms. Key, who should have signed a safety plan agreeing that child 5 would not share a room with the children.
- The second safety issue that was present in this case was the placement of child 1 into the home with two younger [REDACTED] children. There is no evidence that consideration was given to the young ages and the [REDACTED] of the two other children in the Burt home prior to child 1's placement there.
- Additionally, child 1 was never referred for a sexual abuse evaluation<sup>36</sup> to assess his propensity for sexual offenses despite Ms. Burt's ongoing requests for counseling. It appears the FCMs involved in child 1's case each time the sexual incidents were disclosed were not concerned for child 1 being a sexual aggressor based on the family members simply making "allegations." It should be noted that if any history is presented in regard to a child potentially displaying inappropriate sexual behavior, CFOP 175-88 should be followed. Under no circumstances should a FCM or supervisor determine a child's proclivity for future sexual aggression; this determination should only be made by a qualified and trained mental health professional.

<sup>36</sup> It should be noted that child 1 was actually admitted for therapy on December 18, 2007.

Department Quality Assurance (QA) Review dated April 24, 2008

The review consisted of children who received services between July 1, 2005 and January 29, 2008, concentrating on those children in substitute care<sup>37</sup> and excluding those children in an in-home placement<sup>38</sup>. Pertinent excerpts contained within the review are summarized as follows:

**Findings –**

- Twenty-four (24) of the 33 children (73%) reviewed needed a safety plan and out-of-home placement safeguards. The review determined that 17 of the 24 children (71%) did not have safety plans written when needed. Twenty (20) of the 24 children (83%) who needed safety plans were victims of sexual abuse, including 3 children identified as participants in child-on-child sexual abuse.
- Regarding the safety plan for child 1 that was implemented at the Burt foster home, the safety plan did not document the alleged child-on-child sexual abuse that occurred in Puerto Rico. The safety plan also did not specify that [child 1] be the youngest child in the foster home, and that consideration be given to factors that increase the vulnerability of other children residing in the home such as mental and/or emotional disability and physical size. Both of these placement safeguards are required in Rule 65C-28.004(11), F.A.C.
- Regarding the implementation of safety plans for juvenile sexual offenders, three children who required placement were juvenile sexual offenders, and one child had a history of sexually acting out with his younger sibling. Of the four cases, one child was the youngest child in the home. Two of the four children were in licensed care and offended against younger children in the home. The third child's most recent placement was with a relative who had three younger children in the home. For these reasons, the review found that only one in four children had placements that considered vulnerabilities, to include age and size of other children in the home.<sup>39</sup>

**Recommendations**

- FSMO will provide in-service training to Case Managers and Case Manager Supervisors in their System of Care regarding the requirements of the following Administrative Rules. Chapter 65C-30.001(123) F.A.C. as it relates to safety plan requirements for in-home and out-of-home cases. Chapter 65C-28.004(10) F.A.C. as it relates to the placement of children who are victims of sexual abuse. Chapter 65C-28.004(11) F.A.C. as it relates to the placement of children who are alleged juvenile sexual offenders, exhibit sexually inappropriate behavior or are sexually reactive. The in-service training will specifically address:
  - Basic Safety planning.

<sup>37</sup> Substitute care refers to children who have been removed from their home and placed in another location other than their residence.

<sup>38</sup> In-home placement refers to children who have been allowed to remain in their residence with one of the parents/caregivers, but where the offender has been removed from the home.

<sup>39</sup> A recommendation of the Department Quality Assurance Review was that, "FSMO will develop a corrective action plan regarding these report findings and specific case concerns identified in the review as it relates to the Case Management Organizations in their System of Care. FSMO will provide a copy of the corrective action plan to the Central Region Family Safety Program Office."

- Safety planning for children who are victims of sexual abuse.
- Safety planning for children who are alleged juvenile sexual offenders, exhibit sexually inappropriate behavior or are sexually reactive.
- The effective date of Children and Families Operating Procedure (CFOP) 175-88<sup>40</sup> is March 8, 1999. FSMO will develop an Operating Procedure regarding sexual abuse safety planning and placement. The Operating Procedure will adhere to the requirements found in Chapter 65C-30.001(123); 65C-28.004(10); and 65C-28.004(11) Florida Administrative Code (F.A.C.).
- FSMO will develop a safety plan template that addresses specific placement requirements and safety issues regarding sexual abuse. The safety plan template must include all criteria as indicated in Rule 65C-28.004(10) F.A.C. and Rule 65C-28.004(11) F.A.C. The safety plan must be applicable to all victims of sexual abuse and juvenile perpetrators of sexual abuse. The safety plans will become part of the child's case file, placement file and documentation of the safety plan and its contents must be included in FSN, which can be a chronological note entry or other means of documenting it in the automated system.
- The Department and FSMO will incorporate the following into their joint operating procedure for Initial Case Conferences (ICC):
  - Full discussion and disclosure regarding the issues resulting in service provision.
  - Documentation of safety planning and placement issues relating to sexual abuse.
  - Case Manager's reviewing and signing safety plans developed by Child Protective Investigators.
- For out-of-home cases with findings of sexual abuse, The Department of Children and Families and FSMO will make the initial visit to the family jointly when able, as opposed to an invitation or effort. In cases with findings of sexual abuse, safety planning will address perpetrator contact, appropriate sleeping arrangements and placement safeguards.
- FSMO will develop a protocol regarding tracking and placement of child victims referred to them with allegations of sexual abuse or any child identified as a juvenile perpetrator of sexual abuse to ensure appropriate placement in licensed foster placements. This will require each CMO to communicate placements to FSMO and / or other CMO's in the system of care to ensure these children are not placed in a home which is contradictory to any applicable code or operating procedure.
- FSMO will develop a corrective action plan regarding these report findings and specific case concerns identified in the review as it relates to the Case Management Organizations in their System of Care. FSMO will provide a copy of the corrective action plan to the Central Region Family Safety Program Office.

---

<sup>40</sup> CFOP 175-88 is titled "The Prevention and Placement of Child Victims and Aggressors Involved in Child-on-Child Sexual Abuse, Sexual Assault, Seduction or Exploitation in Substitute Care."

2. According to information contained in FSFN Case ID #106916, Devereux Family Case Manager Mabel Roa conducted home visits with child 1 and child 2 in Puerto Rico on September 28, 2006, September 29, 2006, October 2, 2006, November 29, 2006, and December 3, 2006. Child 1's Devereux case file contains Monthly Home Visit logs completed by Ms. Roa for January 29, 2007 and February 1, 2007, however, those visits were not recorded in FSFN as required by Rule 65C-30.007 (9), F.A.C.<sup>41</sup> No other home visits with child 1 and child 2 in Puerto Rico were noted until September 3, 2007. Department Chief of Child Protective Investigations John Harper advised that regardless of where a child is placed, whether in Puerto Rico or another state, caseworkers are to ensure that a child is seen monthly.<sup>42</sup> Further, Mr. Harper said that according to Rule 65C-30.007 (5), F.A.C., contact must occur "a minimum of once every thirty days," meaning that the visit must occur 30 days from the last time the caseworker saw a child. Mr. Harper stated that visiting at the end of one month and again at the beginning of the next month would not qualify as adherence to the current policy (once every thirty days).

3. Regarding child 1's alleged sexual assault of younger children in Puerto Rico, Department Director of Family Safety Patricia Badland advised that an investigation has to be conducted at the location where the incident occurred. Ms. Badland elaborated that even though the Department does not have jurisdiction over children in Puerto Rico, there is an obligation for the caseworker to follow-up with child protective services in Puerto Rico to make sure that child victims receive attention. According to Ms. Badland, it was inappropriate for a Devereux staff member (Family Case Manager Mabel Roa) to conduct home visits with child 1 and child 2 in Puerto Rico without contacting Puerto Rican child welfare authorities. At the request of the Inspector General due to safety concerns, on April 22, 2008, the OIG Investigator and Devereux Family Case Manager Mabel Roa contacted the Departamento de la Familia in Puerto Rico in an attempt to report the alleged sexual assault of the three younger children by child 1 while child 1 was living in Puerto Rico between September 2006 and September 2007. The Departamento de la Familia would not take an abuse report because they are responsible for providing services to children in foster homes. Since the child victims were living with relatives, they suggested calling the Programa de Emergencias Sociales (PES). The PES representative said they could not take a report because the perpetrator (child 1) was living in Florida. Further, if child 1 was living in Puerto Rico, it would still require the family of the victims to make a police report. The police would then refer the victim children to the PES for services.

#### **Risk Assessment:**

1. The children identified in this report are separately addressed below:

- Child 1: According to information contained in the FSMO Quality Management Priority II Review dated February 8, 2008 (mentioned in the Additional Information section above), following his release from the Orange Regional Juvenile Detention Center, child 1 was placed in a mentor home. An older boy was also living in that home. A safety plan signed by child 1 and child 1's therapist was implemented in this home on November 13, 2007. A separate safety plan was signed by Devereux Family

<sup>41</sup> This rule requires that all contacts and attempted contacts regarding case management be documented in the case file within two working days of the contact or attempted contact.

<sup>42</sup> CFOP 175-54, Interstate Compact on the Placement of Children (ICPC), defines ICPC as a contract established among the states and jurisdictions that enact it to ensure orderly procedures for the interstate placement and post-placement supervision of children and fixes responsibilities for those involved in placing the child. Paragraph 4 of CFOP 175-54 states, in part, that the ICPC has been enacted into statutory law in all 50 states, the District of Columbia and the U.S. Virgin Islands, and that Puerto Rico and Guam are the only United States jurisdictions that have not adopted the ICPC.

Case Manager Michelle Scott and the caregiver [REDACTED] on November 5, 2007 and November 7, 2007, respectively.

- Child 2: Child 2 remained in a relative placement with an aunt in Puerto Rico after child 1 was returned to Florida and the aunt has expressed interest in adopting child 2.
- Child 3 and Child 4: The threat against these children was removed upon the arrest of child 1 on October 13, 2007, for sexual battery against child 3 and child 4. Both of these children stayed in the Evan and Rebecca Burt foster home after child 1 was removed from that home.
- Child 5: Based on a court order dated December 29, 2006, protective supervision of child 5 was terminated after permanent guardianship was awarded to child 5's aunt [REDACTED], with whom child 5 was living.

2. On June 12, 2008, at the request of the OIG Investigator, a risk assessment for the 17 children mentioned in the Department QA Review was requested from Circuit 9 Operations Manager Dawn Murray. On July 22, 2008, the OIG was notified by Ms. Murray that of the 17 children, 10 had been located and determined safe, 5 are no longer under protective supervision, supervision/jurisdiction was terminated for another, and the risk status had not been determined for the final child.<sup>43</sup> In addition, Ms. Murray indicated that FSMO and Devereux continue to complete their reviews and updated safety plans.

#### **Inspector General's Comments:**

The information obtained *supports* the first three original allegations listed below:

1. That Devereux Program Director Julian Green, manager of the Placement Unit, put children "in harms way" for sexual assault by allowing an alleged juvenile sexual offender to be placed in the same foster home;
2. That Devereux Family Case Manager Michelle Scott and Devereux Placement Counselor Elizabeth Capo failed to provide written detailed and complete information regarding a child's sexual history to foster parents; and
3. That Devereux Program Director Julian Green, manager of the Placement Unit, put a child "in harms way" for sexual assault by allowing him to be placed in the same foster home as an older child known to be a sexual offender.

The information obtained *does not support* the fourth original allegation listed below:

1. That FSMO Senior Program Specialist Amy Kryszan put children "in harms way" for sexual assault by approving an Overcapacity Waiver Request for an alleged juvenile sexual offender.

The information obtained also *supports* all three of the additional allegations listed below:

1. That Devereux Family Case Manager Michelle Scott failed to request therapy within the required time limit for an alleged juvenile sexual offender;
2. That Devereux Family Case Manager Michelle Scott failed to make and document weekly visits with a child on a waiver for a foster home over its licensed capacity; and

<sup>43</sup> On September 2, 2008, Ms. Murray reported that the final child had been placed in a foster home, received counseling, and was returned home during August 2007.

3. That Devereux Family Case Manager Evita Santana failed to take appropriate action regarding a child sexual perpetrator sharing a room with other children.

This investigation identified countless failures that adversely affected the safety of the children in this report, to include implementing inadequate or no safety plans and not timely requesting therapeutic services for all children involved in child-on-child sexual abuse. The following actions are therefore being recommended:

It is recommended that the Central Regional Director:

- Provide these findings to the Chief Executive Officer/Executive Director of FSMO and Devereux to ensure that the appropriate corrective personnel action is taken.
- Coordinate with FSMO and Devereux authorities to ensure that:
  - Devereux employees understand FSMO's role regarding the placement of children with behavioral problems in out-of-home care and that they become fully knowledgeable of their own responsibilities regarding such children.
  - Prior to placement occurring, Devereux case management personnel be required to know all members of the household.
  - Overcapacity Waivers are only initiated when absolutely necessary and with consideration for the safety of every child involved.
  - Devereux case management personnel are aware that home visits with children on an approved Overcapacity Waiver must be performed weekly and correspondingly documented.
  - Devereux employees do not unnecessarily delay requesting professional therapy for needy children, in accordance with Rule 65C-28.004(1)(b) which requires that a referral to a clinician be initiated by the Services Worker within three working days.
  - All completed home visits with children are properly documented and that every child is met at the required frequency.
  - Follow-up to all recommendations listed in the Department Quality Assurance Review completed in conjunction with this investigation is thorough and prompt.
- Ensure that FSMO and Devereux complete their reviews and updated safety plans as necessary.

It is also recommended that the Assistant Secretary for Programs:

- Revise [to ensure closer alignment with Rule 65C-28.004(11)(a)2., F.A.C.] the first part of Paragraph 7 of CFOP 175-88, which reads, "The following safeguards must be used when placing a child known to be a sexual abuse victim or a sexual aggressor," to read that, "The following safeguards must be used when placing a child who is an *alleged juvenile sexual offender* or known to be a sexual abuse victim or a sexual aggressor."
- Revise [to ensure closer alignment with Rule 65C-28.004(11)(a)2., F.A.C.] the first part of Paragraph 7a. of CFOP 175-88, which reads, "Older sexual abuse victims shall not be placed with younger children. . .," to read that, "*Ensure that an alleged juvenile sexual offender, or a child known to be a sexual abuse victim or a sexual aggressor is the youngest child placed in the home unless the placement is a treatment facility with adequate video monitoring.*"

- Revise that part of Paragraph 7.h., CFOP 175-88, which states that the Family Safety Contract (safety plan) is “recommended” for use with a substitute caregiver when a child known to have been sexually victimized or who is sexually aggressive is placed with them, to read “required” and to include alleged juvenile sexual offenders. It is further recommended that the Family Safety Contract described in CFOP 175-88 be revised to include specific background information, such as the nature and date of the sexual abuse incident(s), the ages of other child(ren) involved, witness statements or other evidence, and any treatment received. Consideration should also be given to adding to CFOP 175-88 that a new Family Safety Contract must be signed by the caregivers if the original document is revised in any way.
- Revise the standard template used by the Department in preparing contracts with lead community-based care agencies to include a requirement that a complete set of records for each child receiving services must be maintained and made available for review by the Department upon request.

It is further recommended that the Assistant Secretary for Programs:

- Consider establishing a protocol to ensure that children (Department clients) placed in Puerto Rico, which has not adopted the Interstate Compact on the Placement of Children, are observed by the proper Puerto Rican authorities on a regular basis.

***This investigation has been conducted in accordance with the ASSOCIATION OF INSPECTORS GENERAL Principles & Quality Standards for Investigations.***